



THE CHAIRMAN

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

April 30, 2002

The Honorable John D. Dingell
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
2322 Rayburn House Office Building
Washington, DC 20515

The Honorable Edward J. Markey
Ranking Member
Subcommittee on Telecommunications and the Internet
U.S. House of Representatives
2108 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Dingell and Congressman Markey:

Thank you for your letter of April 15th regarding securities industry arbitration. I appreciate your bringing these concerns to my attention.

In your letter you note that the Commission and the self-regulatory organizations have made efforts to address the problem of unpaid arbitration awards. We are continuing to monitor the SROs' recent experience regarding unpaid awards. We look forward to the findings of the GAO in its follow-up report regarding the effects these efforts have had on this problem.

You also asked us to review Mr. Richard C. Pali's concerns about the availability of procedural mechanisms for the removal of arbitrators. In this regard, recent changes to NASD Rule 10308(d)(2) created the procedural means for the NASD Arbitration Director to remove arbitrators who do not disclose "any circumstances which might preclude such arbitrator from rendering an objective and impartial determination" pursuant to NASD Rule 10312. While it is not clear whether membership in a bar association is a circumstance that might preclude an arbitrator from rendering an objective and impartial determination, we take seriously allegations of arbitrator bias and misconduct. Accordingly, I have referred Mr. Pali's correspondence to the Commission's Office of Compliance Inspections and Examinations to consider his concerns and follow-up with NASD Dispute Resolution.

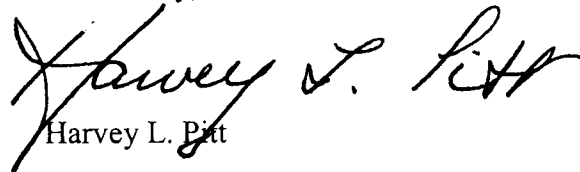
In addition, you asked us to review Mr. Lawrence Schultz's concerns about the securities industry's use of motions for summary disposition and motions to dismiss arbitration claims. As an initial matter, NASD Rule 10324 gives arbitrators broad discretion in how best to resolve the claims presented before them. Moreover, there is no requirement for arbitrators to hear evidence

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on a claim that on its face appears to be without merit. While the Commission neither encourages nor discourages motions, I agree that abuse of motions is a matter of concern. I have, therefore, also referred Mr. Schultz's complaint to the Office of Compliance Inspections and Examinations to consider his concerns about the use of motion practice in NASD arbitration proceedings.

Thank you for highlighting these concerns about arbitration. I remain committed to working with the SROs and the GAO to identify areas where improvements can be made to the arbitration process.

Yours truly,



Harvey L. Pitt

cc: The Honorable W.J. "Billy" Tauzin
The Honorable Michael G. Oxley
The Honorable John J. LaFalce
The Honorable David M. Walker
Ms. Linda D. Fienberg